

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

Tiffany Recinos,

Plaintiff,

v.

Commissioner of Social Security,

Defendants.

Case No. 3:23-cv-05183-TLF

ORDER GRANTING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL (DKT. 44)

This matter comes before the Court on pro se Plaintiff Tiffany Recinos's second motion to appoint counsel. Dkt. 44. Although the noting date has not yet arrived (this matter is noted for May 12, 2023), and counsel for the Commissioner has entered a notice of appearance on April 15, 2023 (Dkt. 41), in the interests of justice the Court will grant the motion.

No constitutional right to counsel exists for an indigent plaintiff in a civil case unless the plaintiff "may lose his physical liberty if he loses the litigation." *Lassiter v. Dep't of Soc. Servs.*, 452 U.S. 18, 25 (1981). However, pursuant to 28 U.S.C. § 1915(e)(1), the Court has the discretion to appoint counsel for indigent litigants who are proceeding in forma pauperis. *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

The Court will appoint counsel only under "exceptional circumstances." *Id.*; *accord Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). "A finding of

1 exceptional circumstances requires an evaluation of both the likelihood of success on  
2 the merits and the ability of the plaintiff to articulate his claims pro se in light of the  
3 complexity of the legal issues involved.” *Wilborn*, 789 F.2d at 1331 (internal quotation  
4 marks and alterations omitted). These factors must be viewed together before reaching  
5 a decision on whether to appoint counsel under § 1915(e)(1). *Id.*

6 At this early stage, it is unclear whether Recinos would have some likelihood of  
7 success on her appeal of the Social Security Administration’s decision. On the other  
8 hand, the issues she has raised appear to be complex and Recinos has not  
9 demonstrated any meaningful ability to articulate her claims pro se. See Dkt. 17,  
10 Plaintiff’s Brief, with attachments; Dkt. 33, Response to Order to Show Cause, with  
11 attachments. It also appears she is seeking a Writ of Mandamus against the Social  
12 Security Administration. See Dkt. 36. A Writ of Mandamus would be an entirely separate  
13 lawsuit, and an attorney would be able to advise her on whether that lawsuit would be  
14 appropriate. Recinos’s filings assert that she has serious medical conditions, and she  
15 states the Social Security Administration is seeking from her a repayment of funds – but  
16 is also appears she has few resources -- she meets the criteria for proceeding *in forma*  
17 *pauperis*. In one of her more recent filings, she indicates that she is legally blind. Dkt.  
18 47.

19 The Court finds that Recinos has presented the sort of exceptional  
20 circumstances that permit the Court to appoint her an attorney. Her second motion for  
21 appointment of counsel, Dkt. 44, is GRANTED.

1 The Clerk shall identify an attorney or law firm from the Court's Pro Bono Panel  
2 to represent Plaintiff Recinos in this case. The scope of the engagement will ultimately  
3 be between the attorney and the client.

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5 Dated this 8th day of May, 2023.

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Theresa L. Fricke  
United States Magistrate Judge